

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WILLIAM JONES,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION No. 08-824
)	Judge Joy Flowers Conti
)	Magistrate Judge Bissoon
SUPT. LOUIS S. FOLINO, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff William Jones, a state prisoner, was granted leave to proceed *in forma pauperis* in this matter on June 16, 2008 (Doc. 2). Two payments have been made from his prisoner account in the total amount of \$24.74 (Docs. 26 and 34). Defendants have filed a Motion to Strike the Complaint (Doc. 86) and have identified six (6) prior federal cases filed by Jones that were dismissed as frivolous. Defendants assert that Jones runs afoul of the “three strikes” provision of the *in forma pauperis* statute, and that this case should be dismissed pursuant to 28 U.S.C. §1915(g)¹.

Plaintiff responded to the motion (Doc. 88) and does not contest that he has at least three prior cases that were dismissed as frivolous. Further, the Court’s review of the court records

¹ The statute provides:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. §1915(g).

referenced by Defendants confirms that Jones has at least three prior “strikes” for purposes of the statute. Hence, the following order.

AND NOW, this 22nd day of January, 2009,

IT IS HEREBY ORDERED that the order granting William Jones the right to proceed *in forma pauperis* (Doc. 2) is VACATED. Plaintiff’s request for an extension of time (Doc. 88) is GRANTED. Plaintiff shall, on or before February 9, 2009, pay the filing fee in full (at this time, he still owes \$324.26), or the undersigned shall recommend that this case be dismissed.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

s/Cathy Bissoon
CATHY BISSOON
UNITED STATE MAGISTRATE JUDGE

Cc:
WILLIAM JONES
53578-066
Federal Correction in Situation - Gilmer
P.O. Box 6000
Glenville, WV 26531